

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ROBERTO GARCIA	§	
v.	§	CIVIL ACTION NO. 6:07cv158
N. QUARTERMAN, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Roberto Garcia, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On May 2, 2007, the Magistrate Judge ordered Garcia to pay an initial partial filing fee of \$34.62, pursuant to 28 U.S.C. §1915(b). Garcia received a copy of this order on May 7, 2007, but did not comply, nor did he respond in any way.

On August 31, 2007, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice. A copy of this Report was sent to Garcia at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and

legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct insofar as it recommends dismissal without prejudice for failure to pay the initial partial filing fee. It is accordingly

ORDERED that the Report of the Magistrate Judge, insofar as this Report recommends dismissal without prejudice for failure to pay the initial partial filing fee, is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 18th day of October, 2007.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**